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Attorneys for Complainant
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8 **BEFORE THE**
9 **PHYSICAL THERAPY BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against: Case No. 1D 2000 62675

Yvette McPheeters

13 Physical Therapist Assistant
14 License No. AT 2380

**DEFAULT DECISION
AND ORDER**

Respondent. [Gov. Code, '11520]
15 _____

16 FINDINGS OF FACT

17 1. On or about September 25, 2001, Complainant Steven K. Hartzell, in his
18 official capacity as Executive Officer of the Physical Therapy Board of California, Department
19 of Consumer Affairs, State of California, filed Accusation No. 1D 2000 62675 against
20 Respondent Yvette McPheeters (ARespondent@) before the Physical Therapy Board (ABoard@).
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22 2. On or about December 17, 1990, the Physical Therapy Board of California
23 issued Physical Therapist Assistant License Number AT 2380 to Respondent. The Physical
24 Therapist Assistant License was in full force and effect at all times relevant to the charges
brought in the Accusation and will expire on August 31, 2002, unless renewed.
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26 3. On or about September 25, 2001, Elsa Ybarra, an employee of the Board,
served by certified U.S. return mail and by regular mail a copy of the Accusation No. 1D 2000
62675, to both of Respondent's addresses of record with the Board, which are: 15021 Lassen
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2 Street, Mission Hills, California, 91407; and Post Office Box 3524, Van Nuys, California,
3 91407. The Accusation mailings sent to Respondent=s Post Office Box address were apparently
4 received, as neither the certified return mailing nor the mailing sent by regular mail were
5 returned to the Board. Both envelopes addressed to Respondent=s Lassen Street address were
6 returned to the Board as Aundeliverable.@ To date, the Board has not received a notice of
7 defense from Respondent. A copy of the Accusation, the related documents, Declaration of
8 Service, and the Declaration of Elsa Ybarra are attached as exhibit A, and are incorporated
9 herein by reference. A copy of the postal return envelopes and documents received by the Board
10 following the mailings is attached as exhibit B.

11 4. Service of the Accusation was effective as a matter of law under the
12 provisions of Government Code section 11505, subdivision (c).

13 5. Government Code section 11506 states, in pertinent part:

14 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
16 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
17 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

18 6. Respondent failed to file a Notice of Defense within 15 days after service
19 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
20 Accusation No. 1D 2000 62675.

21 7. California Government Code section 11520 states, in pertinent part:

22 "(a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions or
24 upon other evidence and affidavits may be used as evidence without any notice to
25 respondent."

26 8. Pursuant to its authority under Government Code section 11520, the Board
^^ finds Respondent is in default. The Board will take action without further hearing and, based on

Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations in Accusation No. 1D 2000 62675 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Yvette McPheeters has subjected her Physical Therapist Assistant License Number AT 2380 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.



3. The agency has jurisdiction to adjudicate this case by default.

4. The Physical Therapy Board is authorized to revoke Respondent's Physical Therapist Assistant License based upon the following violations alleged in the Accusation:

a. Business and Professions Code (A Code) section 119(a)(1) (displaying or possessing a fraudulently altered license);

2. Section 119(f) of the Code (reproducing a license so it could be mistaken as a valid license);

3. Section 2630 of the Code (practicing or holding self out as physical therapist without a valid license); and

4. Section 2660(l) of the Code (fraudulent, dishonest, or corrupt act).

ORDER

IT IS SO ORDERED that Physical Therapist Assistant License Number AT 2380, heretofore issued to Respondent Yvette McPheeters, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the

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statute.

This Decision shall become effective on __January 14, 2002_____.

It is so ORDERED __December 14, 2001_____

Original signed byDonald Chu_____
FOR THE PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
Donald Chu, PhD, PT, President

Attachments:

Exhibit A: Accusation No.1D 2000 62675, Related Documents, and Declaration of Service
Exhibit B: Postal Return Documents
Declaration of Elsa Ybarra

DOJ docket number:03575160-LA01 0815
default decision.wpt 10/14/01

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Exhibit A
Accusation No. 1D 2000 62675,
Related Documents and Declaration of Service

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Exhibit B
Postal Return Documents

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3 **BEFORE THE**
4 **PHYSICAL THERAPY BOARD**
5 **DEPARTMENT OF CONSUMER AFFAIRS**
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against: Case No. 1D 2000 62675

8 Yvette McPheeters

9 Physical Therapist Assistant
License No. AT 2380

**DECLARATION OF ELSA
YBARRA**

Respondent.

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11 I, Elsa Ybarra, declare,

12 1. I am the Analyst assigned by the Physical Therapy Board of California (ABoard@) to
13 process and administer the preparation and mailing of all official documentation in the matter of
14 the Accusation against Respondent Yvette McPheeters (ARespondent@), case no. 1D 2000
15 62675. I have personal knowledge of the facts stated herein, and if called as a witness, I could
16 and would testify competently to those facts.

17 2. On or about September 25, 2001, I served by certified U.S. return mail and by regular
18 mail a copy of the Accusation No. 1D 2000 62675, to both of Respondent's addresses of record
19 with the Board, which are: 15021 Lassen Street, Mission Hills, California, 91407; and Post
20 Office Box 3524, Van Nuys, California, 91407.

21 3. The Accusation mailings that I caused to be mailed to Respondent=s Post Office Box
22 address were apparently received, as neither the certified return mailing nor the mailing sent by
23 regular mail were returned to the Board. Both envelopes addressed to Respondent=s Lassen
24 Street address were returned to the Board as Aundeliverable.@

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4. To date, the Board has not received a notice of defense from Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Sacramento on November 28, 2001.

Original signed by Elsa Ybarra
ELSA YBARRA
Declarant